STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced:	**02/13/03**	Bill No:	**SB 230**
Tax:	**Sales and Use**	Author:	**Morrow**
Board Position:		Related Bills:	

BILL SUMMARY

This bill would provide a 5 percent state sales and use tax exemption for the sale and purchase of tangible personal property by a person aged 65 years or older.

ANALYSIS

Current Law

Under current law, the sales and use tax is imposed on the sale or use of tangible personal property in this state. There are currently no exemptions from the tax based on the age of the purchaser.

Under existing law, a base state and local sales and use tax rate of 7 ¼ percent is imposed as follows:

- 5 percent state tax allocated to the state's General Fund (Section 6051, 6051.3, 6201 and 6201.3).
- ½ percent state tax allocated to the Local Revenue Fund which is dedicated to local governments for program realignment (Section 6051.2 and 6201.2).
- ½ percent state tax allocated to the Local Public Safety Fund which is dedicated to local governments to fund public safety services (Sec. 35 of Article XIII of the California Constitution).
- 1 ¼ percent Bradley-Burns Uniform Local Sales and Use Tax which is allocated to cities and counties (Part 1.5, commencing with Section 7200).

In addition, the law authorizes a 1/8 to 1 1/4 percent Transactions and Use Tax which is allocated to special taxing jurisdictions in various counties and cities within the state (Part 1.6, commencing with Section 7252).

Proposed Law

This bill would add Section 6358.65 to the Revenue and Taxation Code to create a partial sales and use tax exemption (5 percent) for the sale of, or storage, use or other consumption of tangible personal property that is purchased, stored, used, or consumed by a person aged 65 years or older.

The provisions of the bill would become effective immediately, but become operative on the first day of the first calendar quarter commencing more than 90 days after the bill is enacted.

Background

South Carolina has a similar law providing a sales and use tax exemption for the elderly who purchase tangible personal property. As of 1984, any person aged 85 years or older is eligible to receive an exemption of 1 percent of the state sales and use tax rate of 5 percent tax rate on any purchase of tangible personal property. Recent changes to the law in South Carolina require retailers to post notices informing purchasers of the exemption.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author in an effort to reduce the tax burden on senior citizens, many of whom are on a limited fixed income.
2. **Type of property qualifying for the exemption.** The proposed exemption would apply to any purchase of tangible personal property by a person 65 years or older. Many of these people are on fixed incomes and this would provide some tax savings for senior citizens when purchasing necessary items such as toiletries, over the counter medicines, clothing, and prepared hot meals. However, this exemption would also apply to luxury items purchased by a person 65 years or older. There are numerous wealthy senior citizens who would enjoy significant tax savings when purchasing a luxury automobile, a large screen television, a recreational vehicle, or a yacht. Limiting the exemption to purchases under a certain dollar threshold, such as $1,000, could reduce the revenue impact to the state and continue to provide tax savings to the senior citizens this bill is intended to benefit.
3. **Documentation by retailers.** The law provides that for the purpose of the proper administration of the sales and use tax and to prevent evasion of the sales tax, it shall be presumed that all gross receipts are subject to the tax until the contrary is established. In order for retailers to rebut this presumption, they would be required to establish to the satisfaction of the Board that the tangible personal property they sell for which an exemption is claimed under the provisions of this measure are not subject to the sales or use tax. Consequently, the retailer would be required to obtain and retain documentation that the purchaser is in fact aged 65 years or older at the time of purchase. Documentation may consist of a copy of a valid identification card showing the birthdate of the purchaser or a copy of a valid exemption certificate issued by the purchaser. Although this would place an added record-keeping burden on retailers, without such documentation, the possibility of numerous taxable transactions escaping taxation could result in a higher revenue loss than anticipated.
4. **Partial tax exemptions are difficult to administer.** The creation of a partial tax exemption for a somewhat broad exemption such as that proposed in this bill would complicate reporting requirements for a large number of retailers. This bill would partially exempt all purchases of tangible personal property by persons age 65 or older. This could potentially affect virtually every retailer in this state. Affected retailers would be required to compute and collect the applicable local and district taxes on the sale, and then segregate these partially exempt sales from other sales in order to properly complete their sales and use tax returns. This would place an

added record-keeping burden on retailers. In addition, the Board's experience with its administration of other partial exemptions indicates that errors on returns increase, which has a corresponding increase in the Board's workload.

5. **DMV may also be affected by this bill.** The sale of vehicles could qualify for the proposed exemption. Sales and purchases of vehicles are generally subject to either the sales tax or the use tax. Generally, the sales tax applies when the vehicle is purchased from a dealer located in this state. The use tax generally applies whenever the sales tax does not apply, such as purchasing a used vehicle from a private party.

   When the sales tax applies, it is collected by the dealer and remitted to the Board of Equalization. When the use tax applies, the purchaser pays the tax to the Department of Motor Vehicles (DMV) when registering the vehicle. The DMV acts as an agent for the Board of Equalization in these situations.

   The exemption proposed by this bill could require dealers selling vehicles subject to the partial exemption to maintain documentation to support the exemption and also require separate accounting and reporting for sales subject to the partial exemption. Additionally, the DMV would also be affected in situations where the partial tax exemption would apply, but the tax is being paid directly to the DMV rather than the selling dealer.

COST ESTIMATE

Some costs would be incurred in programming, notifying affected retailers, answering inquiries, writing appropriate regulations, revising and processing returns. An estimate of these costs is pending.

REVENUE ESTIMATE

Background, Methodology, and Assumptions

Under current law, the purchase of tangible personal property is taxable. This bill would exempt from the state sales and use tax tangible personal property that is purchased by a person 65 years of age or older.

According to the US Census, in 2000, the total population of California was 33,871,648. Of that number 3,595,658 comprised persons 65 years of age or older or 10.6 percent of California's population. The US Census estimated the population for California in 2001 (the most recent data available) to be 34,600,463. Assuming that the percentage of the population of persons 65 years or older remains at 10.6 percent, the total number of persons who would qualify under this bill are estimated to be 3,667,649.

According to Taxable Sales In California, the per capita expenditure on all taxable transactions in 2001 was $12,703. Therefore, the total taxable transactions that would qualify under this bill are estimated to be $46.6 billion ($12,703 X 3,667,649).

Revenue Summary

The revenue impact from exempting $46.6 billion from the state sales and use tax is as follows:

	Revenue Effect
State loss (5.00%)	$2.3 billion

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